

Introduced by Senator Simitian

February 22, 2005

An act to amend Section 7280 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 956, as introduced, Simitian. Transient occupancy tax.

Existing law authorizes the legislative body of a city, county, or a city and county to impose an excise tax for the privilege of occupying a living space in a hotel, inn, tourist home or house, motel, or other lodging space, as provided.

This bill would clarify that these provisions apply to the occupation of a living or lodging space in a hotel, inn, tourist home or house, motel, or other lodging space.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 7280 of the Revenue and Taxation Code
2 is amended to read:
3 7280. (a) The legislative body of any city, county, or city and
4 county may levy a tax on the privilege of occupying a room or
5 rooms, or other living *or lodging* space, in a hotel, inn, tourist
6 home or house, motel, or other *living or lodging space* unless the
7 occupancy is for a period of more than 30 days. The tax, when
8 levied by the legislative body of a county, applies only to the
9 unincorporated areas of the county.
10 (b) For purposes of this section, the term "the privilege of
11 occupying a room or rooms, or other living *or lodging* space, in a

1 hotel, inn, tourist home or house, motel, or other *living or*
2 *lodging space*” does not include the right of an owner of a
3 time-share estate in a room or rooms in a time-share project, or
4 the owner of a membership camping contract in a camping site at
5 a campground, or the guest of the owner, to occupy the room,
6 rooms, camping site, or other real property in which the owner
7 retains that interest.

8 For purposes of this subdivision:

9 (1) “Time-share estate” means a time-share estate, as defined
10 by paragraph (1) of subdivision (x) of Section 11212 of the
11 Business and Professions Code.

12 (2) “Membership camping contract” means a right or license
13 as defined by subdivision (b) of Section 1812.300 of the Civil
14 Code.

15 (3) “Guest of that owner” means a person who does either of
16 the following:

17 (A) Occupies real property accompanied by the owner of
18 either of the following:

19 (i) A time-share estate in that real property.

20 (ii) A camping site in a campground pursuant to a right or
21 license under a membership camping contract.

22 (B) Exercises that owner’s right of occupancy without
23 payment of any compensation to the owner.

24 (C) “Guest of that owner” specifically includes a person
25 occupying a time-share unit or a camping site in a campground
26 pursuant to any form of exchange program.

27 (c) For purposes of this section, “other *living or lodging*
28 *space*” includes, but is not limited to, a camping site or a space at
29 a campground or recreational vehicle park, but does not include
30 any of the following:

31 (1) Any facilities operated by a local government entity.

32 (2) Any lodging excluded pursuant to subdivision (b).

33 (3) Any campsite excluded from taxation pursuant to Section
34 7282.

35 (d) Subdivision (b) does not affect or apply to the authority of
36 any city, county, or city and county to collect a transient
37 occupancy tax from time-share projects that were in existence as
38 of May 1, 1985, and which time-share projects were then subject
39 to a transient occupancy tax imposed by an ordinance duly
40 enacted prior to May 1, 1985, pursuant to this section. Chapter

257 of the Statutes of 1985 may not be construed to affect any litigation pending on or prior to December 31, 1985.

(e) (1) (A) If the legislative body of a city, county, or city and county elects to exempt from a tax imposed pursuant to this section any of the following persons whose occupancy is for the official business of their employers, the legislative body shall create a standard form to claim this exemption and the officer or employee claiming the exemption shall sign the form under penalty of perjury:

(i) An employee or officer of a government outside the United States.

(ii) An employee or officer of the United States government.

(iii) An employee or officer of the state government or of the government of a political subdivision of the state.

(B) The standard form described in subparagraph (A) shall contain a requirement that the employee or officer claiming the exemption provide to the property owner one of the following, as determined by the legislative body of the city, county, or city and county imposing the tax, as conclusive evidence that his or her occupancy is for the official business of his or her employer:

(i) Travel orders from his or her government employer.

(ii) A government warrant issued by his or her employer to pay for the occupancy.

(iii) A government credit card issued by his or her employer to pay for the occupancy.

(C) The standard form described in subparagraph (A) shall contain a requirement that the officer or employee provide photo identification, proof of his or her governmental employment as an employee or officer as described in clause (i), (ii), or (iii) of subparagraph (A), and proof, consistent with the provisions of subparagraph (B), that his or her occupancy is for the official business of his or her governmental employer.

(2) There shall be a rebuttable presumption that a property owner is not liable for the tax imposed pursuant to this section with respect to any government employee or officer described in clause (i), (ii), or (iii) of subparagraph (A) of paragraph (1) for whom the property owner retains a signed and dated copy of a standard form that complies with the provisions of subparagraphs (B) and (C) of paragraph (1).

1 (f) The provisions of subdivision (e) are not intended to
2 preclude a city, county, or city and county from electing to
3 exempt any other class of persons from the tax imposed pursuant
4 to this section.

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